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/Introductory

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Introductory NoteResidence and domicile

(i) The terms "residence" and "domicile" have quite distinct meanings for the purposes of United Kingdom tax law.

(ii) The residence of an individual is determined for each income tax year (beginning on 6 April) by reference to the facts in that year. The great mass of the population whose home in the ordinary sense is in the United Kingdom and who, if they go abroad for business or pleasure, go for short periods only, are resident in the United Kingdom irrespective of their nationality. If an individual in this class goes abroad for a long period, he may cease to be resident in the United Kingdom for tax purposes, but if he returns for regular visits he may be regarded as remaining resident throughout. A visitor to this country from abroad, whatever his nationality or place of domicile, becomes resident in the United Kingdom for any income tax year in which he is actually in the United Kingdom for a period or periods equal in the whole to six months. If he maintains a place of abode in the United Kingdom available for his use, he is resident in the United Kingdom for any year in which he pays a visit, however short, to the United Kingdom. Moreover, even though he satisfies neither of these conditions, he is regarded as resident in the United Kingdom if he visits the United Kingdom year after year, so that the visits become in effect part of his habit of life, and the annual visits are for a substantial period or periods of time. Generally an average annual stay amounting to three months would be regarded as substantial, and the visits would be regarded as having become "habitual" after four years, but such a visitor would be regarded as resident from the start if it were clear then that substantial regular visits were to be made.

(iii) An individual is domiciled in that country which is considered by the law to be his permanent home. Generally this is the country which is in fact his permanent home, but there are special rules relating to certain cases. Every individual at birth has the domicile of his father (or his mother in the case of an illegitimate child). The domicile of a minor changes automatically with that of the parent except that a woman of whatever age acquires on marriage the domicile of her husband. The domicile of a married woman follows that of her husband throughout their married life. In other cases the "domicile of origin", that is, the domicile which an individual has on reaching the age of twenty-one, remains unless he acquires a "domicile of choice", which he can do only if he leaves the country of his domicile of origin, and takes up his residence in another country with the intention of making his permanent home there. A domicile of choice is lost by departure from the country of such domicile without the intention of returning there to live; the domicile of origin then revives unless a new domicile of choice /is acquired.

is acquired. It is thus impossible to without a domicile or to be domiciled in more than one country at a time.

(iv) In addition to the conceptions of domicile and residence, United Kingdom tax law uses the term "ordinary residence". The great mass of the population of the United Kingdom are ordinarily resident there; an individual in this class would remain ordinarily resident even if he went abroad for a long period, if he returned for regular visits during his period of absence. A visitor to the United Kingdom from abroad if he pays habitual visits, year after year, which are such as to render him resident in the United Kingdom, is also regarded as being ordinarily resident in the United Kingdom.

(v) The term "domicile" is only of relevance for the purposes of income tax in relation to income from abroad, and the term "ordinary residence" is of importance only

(a) in the case of British subjects in relation to income from abroad

and (b) generally in relation to income from certain British Government securities issued with the condition that exemption from tax attaches to the interest going to persons not "ordinarily resident" in the United Kingdom.

The term "domicile" is, however, of major importance in relation to death duties.

(vi) By reference to the principles of United Kingdom tax law as explained above it is possible for an individual to be resident and ordinarily resident in more than one country for the same income tax year.

(vii) A company, wherever incorporated, is regarded as being both resident and ordinarily resident in that country in which the central management and control of its business is situated. The residence, domicile, or nationality of the shareholders is irrelevant. A company can normally be resident only in one place at a time.

(viii) The nationality or residence of a ship or aircraft is not relevant for United Kingdom tax law. The taxation of the profits depends upon the residence of the person to whom the profits accrue.

(ix) The terms "domicile", "resident", and "ordinarily resident" are not defined in the Income Tax Acts. Some guidance as to the meaning of the term "resident" is given in Rule 3, Miscellaneous Rules applicable to Schedule D, and Rule 2, General Rules applicable to Schedules A, B, C, D and E, Income Tax Act, 1918, but in the main their meaning has been defined by dicta in a long series of High Court cases e.g., *Cooper v. Cadwalader*, 5 T.C.101. *Loewenstein v. De Salis*, 10 T.C.424, *Reid v. C.I.R.*, 10 T.C.673, *Levene v. C.I.R.* 14 T.C.486, and *Lysaght v. C.I.R.* 13 T.C.511 regarding individuals,

/and De Beers

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and De Beers Consolidated Mines Ltd. v. Howe 5 T.C.198 and Todd v. Egyptian Delta Land and Investment Co. Ltd., 14 T.C.119 regarding companies.

Double Taxation Conventions

- (i) The United Kingdom has entered into comprehensive double taxation conventions with the United States of America, Canada, Australia, New Zealand, Southern Rhodesia, Nigeria, Sierra Leone, Gold Coast, Gambia, Nyasaland, Aden, Palestine, Cyprus, British Honduras, Antigua, St. Christopher and Nevis, Montserrat, Virgin Islands, British Guiana, Mauritius, Northern Rhodesia, Seychelles, Trinidad and the Netherlands. (The convention with the Netherlands has not yet been ratified.) All these conventions are in substantially similar terms and any reference in the following pages to double taxation conventions made by the United Kingdom refers to all these conventions, except where expressly stated.
- (ii) The convention between the United Kingdom and South Africa is narrower in scope than those referred to above, and is mentioned specifically wherever it is applicable.
- (iii) Limited agreements relating to specific matters (air and sea transport and certain agencies) are described under the relevant headings.
- (iv) The Fiscal Commission, it is understood, already has copies of all these agreements.
- (v) The United Kingdom's views on the London and Mexico Model Draft Convention have already been supplied.

Eire

Under a double taxation agreement with Eire (made in 1926, and reproduced in the Second Schedule to the Finance Act, 1926), unique of its kind so far as the United Kingdom is concerned, persons resident in Eire and not resident in the United Kingdom are totally exempt from United Kingdom income tax and sur-tax. Persons who are resident in both Eire and the United Kingdom are charged to tax in both countries, but the double taxation is eliminated by each country giving relief at half the "appropriate" rate of United Kingdom tax or Eire tax, whichever is the lower; the general effect is to eliminate the lower of the two taxes.

To avoid constant repetition, this agreement is not referred to in the notes which follow, but any reference to the income tax liability of persons who are not resident in the United Kingdom is to be read as excluding residents in Eire and any reference to income arising abroad is to be read as exclusive of income arising in Eire.

Individuals and companies

In general, the United Kingdom income tax law makes no distinction between individuals and companies. Where a distinction does exist, it is brought out in the following notes by the use of the word "individual" or
/ "company"

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"company" (which includes any corporate body). The terms "taxpayer", "person", "recipient", etc., should be read as applying equally to an individual or a company.

International Reciprocity

United Kingdom law makes no exceptions to the general rule on a basis of reciprocity, except under a double taxation convention.

/QUESTIONNAIRE

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QUESTIONNAIRE

A. Direct Taxes

I. Income Tax

a. Structure and underlying principles of income tax system

(i) United Kingdom income tax is chargeable on the taxpayer's total income from all sources. The various categories of income are grouped under five schedules as follows:

Schedule A: income from ownership of land, buildings and other hereditaments.

Schedule B: income from occupation of lands.

Schedule C: interest, dividends and annuities payable out of the the public revenue, British, Dominion, Colonial or foreign.

Schedule D: profits and income grouped under the following six heads or "Cases":

Case I: Profits of a Trade.

Case II: Profits of a profession or vocation.

Case III: Interest (except interest charged under Schedule C), discounts, and certain profits from lands.

Case IV: Income from securities outside the United Kingdom.

Case V: Income from other possessions outside the United Kingdom.

Case VI: Income not charged under any other heading.

Schedule E: income from an office, employment or pension.

(ii) These Schedules prescribe rules for computing the amount of income in each category and define the deductions allowable. They also lay down the methods by which the tax is to be assessed and collected, but they do not constitute separate schedular taxes, since the taxpayer's total liability depends upon the aggregate amount of his income under all the Schedules.

(iii) Income from sources within the United Kingdom is in general chargeable to tax irrespective of the nationality or place of residence of the recipient. The only exceptions to this rule are:

(i) the interest on certain British Government securities is exempt from tax if the owner of the securities is not ordinarily resident in the United Kingdom (Section 46, Income Tax Act, 1918).

(ii) under double taxation conventions between the United Kingdom and foreign and Dominion countries, certain categories of income arising in the United Kingdom are exempt from tax if the recipient is resident in the other country and is not resident in the United Kingdom.

/ (iv) Income

(iv) Income from sources outside the United Kingdom is chargeable to tax only if the recipient is resident in the United Kingdom. Normally the charge extends to the full amount of the income arising, whether it is received in the United Kingdom or not, (Rule 1, Case IV and Rule 1, Case V, Schedule D, Income Tax Act, 1918), but the charge is limited to the amount of income remitted to or received in the United Kingdom in the following cases:

- (i) earned income (salary, wages, pension) arising abroad to any individual (see reply under AI(e)(1)(ii) and (2) as to business profits).
- (ii) all income arising abroad where the recipient, though resident in the United Kingdom, is not domiciled there or, being a British subject, is not ordinarily resident there. (Rule 2, Case IV and Rules 2 and 3, Case V, Schedule D, Income Tax Act, 1918).

(v) The total income of a taxpayer is the aggregate amount of his income from all sources, computed in each case by reference to the rules set out above, including, in the case of a married man, the income of his wife. (General Rule 16(a)).

(vi) In the case of an individual resident in the United Kingdom (whatever his nationality or place of domicile), an allowance in respect of his earned income (at present one-fifth but not more than £400), a personal allowance for himself (increased if he is married) and certain allowances for dependents are deducted from his total income in arriving at his taxable income. Of the balance, for the income tax year 1948/49, the first £50 of the taxable income is then charged to tax at 3/- in the £, the next £200 is chargeable at 6/- in the £, and the remainder is chargeable at 9/- in the £. From the amount so charged, a measure of relief is given, subject to certain conditions, in respect of life assurance premiums. (Amounts of allowances and rates of tax are laid down annually in the Finance Act.)

(vii) An individual who is not resident in the United Kingdom is normally chargeable at the rate of 9/- in the £ on his total income, without earned income relief or any allowances for family circumstances and without the benefit of the reduced rates of tax. British subjects, however, and certain other classes of persons, are allowed a proportion of these allowances and reliefs even when they are not resident in the United Kingdom, the proportion being the ratio which their income from United Kingdom sources bears to their total world income (Section 24, Finance Act, 1920). This treatment has been extended under double taxation conventions to French subjects resident in France, and to residents in the Netherlands, irrespective of their nationality.

(viii) A company is chargeable to tax at the rate of 9/- in the £ on its total income.

/(ix) Sur-tax

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(ix) Sur-tax is imposed on individuals, but not on companies (except in the circumstances described at o 6. (c), (vi)) whose total income chargeable to United Kingdom tax exceeds £2,000. The tax is charged at graduated rates rising from 2/- in the £ on the first £500 by which the total income (as determined for income tax) exceeds £2,000 to 10/6 in the £ on the amount by which the total income exceeds £20,000.

(x) The income tax and sur-tax so determined may be reduced by credit for foreign taxes imposed by the country of origin on any items of foreign income charged to United Kingdom tax, if such credit is provided for in a reciprocal double taxation agreement with the country imposing the tax, but credit is only allowable to residents of the United Kingdom (whether or not they are also resident elsewhere, and irrespective of their domicile or nationality), and is confined to the United Kingdom tax appropriate to the income.

(xi) In the absence of a double taxation agreement there is no relief for foreign tax (except that it is deductible from the income chargeable to United Kingdom tax) but a measure of relief for Dominion or Colonial income tax is provided by Section 27, Finance Act 1920. This relief is allowed to any person (individual or company) wherever resident or domiciled, who has borne both United Kingdom and Dominion or Colonial tax on any item of income. It takes the form of a reduction of the United Kingdom tax by an amount equal to tax on the amount of the doubly-taxed income at a rate equal to the Dominion or Colonial rate of tax or one half of the appropriate rate of United Kingdom tax, whichever is the less. When this relief is claimed, the amount of the Dominion or Colonial tax is not allowed as a deduction in computing the amount of the income, except that, if the Dominion or Colonial rate exceeds half the appropriate United Kingdom rate, so that the relief falls short of the full measure of double taxation, the unrelieved part of the Dominion or Colonial tax is allowed to be deducted in computing the amount of the income unless the Dominion or Colony itself grants relief in respect of such part of the double taxation.

(xii) The answers to the specific questions are therefore:

1. (a) No
- (b) Yes
 - (1)(i) and (ii) No
 - (2)(i) Yes
 - (ii) No
 - (3) Yes
- (c) No
- (d) See paragraph (ix) above.

/b. Income

b. Income from real property

1. (i) United Kingdom income tax is chargeable in respect of income from real property situated in the United Kingdom, without regard to the nationality, domicile, or residence of the person receiving the income.

(ii) Income from real property situated outside the United Kingdom is chargeable to United Kingdom income tax if it accrues to a person who is resident in the United Kingdom. The measure of the income will be the full amount arising, whether it is remitted to or received in this country or not, except that the charge is limited to the amount remitted to or received in the United Kingdom in the case of a taxpayer who, though resident in the United Kingdom, is domiciled elsewhere and in the case of a British subject who, though resident in the United Kingdom, is not ordinarily resident there. The charge is similarly limited if the income in question is immediately derived by the taxpayer from the carrying on by him of a trade outside the United Kingdom either solely or in partnership.

(iii) In the case of income derived by a resident in the United Kingdom from real property situated in a country with which the United Kingdom has a comprehensive double taxation convention, the income is still chargeable to United Kingdom tax as described above (but without any deduction for foreign income tax) but any tax charged in the other country upon that income or upon that part of it which is charged to United Kingdom tax, is allowed as a credit.

(iv) The answer to questions (a) and (b) is therefore that the nationality, domicile, or residence of the owner is irrelevant in the case of property situated in the United Kingdom. Tax is only chargeable in respect of property situated outside the United Kingdom if the owner is resident in the United Kingdom. The only modification introduced by international tax agreements is as shown in (iii) above.

2. (i) As regards real property situated in the United Kingdom, United Kingdom tax law distinguishes between income from the ownership of the property, which is chargeable under Schedule A, and income from the occupation of land, which is chargeable under Schedule B.

(ii) Tax is chargeable under Schedule A on the net annual value of the property, that is, the rent at which the property is let, or is worth to be let, by the year (the gross annual value), less a deduction for the cost of repairs (No. I and Rule 5 of No. V of Schedule A). The tax is normally payable by the occupier, but he has a right to deduct it from any rent he pays, so it is ultimately borne by the owner (Rule 1 of No. VIII of Schedule A). If the owner is himself the occupier, he himself pays and bears the tax. Where there is a sub-letting, the occupier deducts the tax
/from the rent

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from the rent he pays to the lessee, who in his turn deducts tax from the rent he pays to the owner.

(iii) Where the rent receivable exceeds the assessment made on the property under Schedule A the recipient is chargeable to tax under Case VI of Schedule D in respect of the amount by which the rent exceeds the Schedule A assessment (Sections 13 to 16, Finance Act, 1940). This rule also applies where the rent includes a payment for the use of furniture.

(iv) In the case of quarries, mines, ironworks, gasworks, waterworks, canals, docks, railways, ferries and similar concerns, the annual value is computed, not by reference to real or hypothetical rent, but by reference to the profits actually made (Rules 1, 2 and 3, No. III of Schedule A). In these cases therefore there is no separate charge of tax in respect of the ownership of land, but one charge on the entire business profits (see Section e, 6 (c) (viii) below).

(v) Income from the occupation of land is chargeable in various ways. Income from agriculture and livestock-raising is at present chargeable by reference to the actual profits derived (see Section e below), if the gross annual value of the land for Schedule A purposes exceeds £100 (Sections 10 and 11, Finance Act, 1941). If the gross annual value is £100 or less, tax is charged under Schedule B on three times that gross annual value unless the farmer shows that his actual profits were less than that figure (Rule 6 of Schedule B). For the year 1949-50 and subsequent years, however, all farmers are to be charged by reference to their actual profits (Section 31, Finance Act, 1948). Market gardens and nurseries have always been charged by reference to the actual profits (Rule 8, Schedule B).

(vi) The occupier of land not used for farming (e.g., parks, playing fields) is charged under Schedule B in respect of income deemed to be derived from the occupation of the land on an amount equal to one-third of the gross annual value of the land. This basis also applies to woodlands, except that if they are managed on a commercial basis the taxpayer may elect to be charged by reference to his actual profits.

(vii) If the land is used for business purposes the amount of the Schedule B assessment is deducted in computing the business profits chargeable under Schedule D. For the year 1949-50 and subsequent years, however, tax under Schedule B will not be charged on land used for business purposes; all income from the occupation of land for business purposes will then be charged on the actual profits derived and not by reference to the annual value.

(viii) The answers to the specific questions under (b) 2 are therefore:

/(a) Yes

- (a) Yes (see (v) above)
- (b) Yes (see (ii), (iii), (v), (vi) and (vii) above)
- (c) Yes (see (ii) and (iii) above as regards property in the United Kingdom and 1 (ii) as regards property outside the United Kingdom)
- (d) Yes (see (iv) above)
- (e) No.

The only modification introduced by international tax agreements is as shown in 1 (iii) above.

c. Income from royalties on natural resources such as mines, quarries, oil wells and other natural deposits (unless taxed as income from real property)

1. (a) and (b) (i) Income from royalties derived from natural resources situated in the United Kingdom is chargeable to United Kingdom income tax irrespective of the nationality or domicile of the payee or payer.

(ii), Income from such royalties derived from natural resources outside the United Kingdom and arising to a person residing in the United Kingdom is chargeable to United Kingdom income tax on the full amount (less any income tax imposed thereon in the country of origin) whether the income is remitted to the United Kingdom or not, unless the person is not domiciled in the United Kingdom or being a British subject is not ordinarily resident in the United Kingdom, in which cases tax is chargeable only on the amount of the income which is remitted to the United Kingdom.

(c) The taxation of the royalties does not therefore depend on the place where the produce from the natural resource is used.

The answers to the specific questions are therefore:

(a) and (b) the nationality, domicile, or residence of the payee or payer is irrelevant in the case of resources in the United Kingdom. Tax is only chargeable on such income from resources abroad if the recipient is resident in the United Kingdom.

(c) To no extent.

The only modification introduced by international tax agreements is the same as described in b.1.(iii).

d. Income from mortgages on real property, ships or aircraft (including mortgage bonds, if they are considered as interests in realty, rather than as securities)

(i) All interest arising from sources in the United Kingdom under mortgages or mortgage bonds is liable to United Kingdom income tax under Case III of

/Schedule D

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Schedule D of the Income Tax Act, 1918. The normal procedure is to charge tax at the standard rate in respect of the interest on the mortgagor, who is entitled to deduct and retain an equivalent amount on paying the interest to the mortgagee. In certain circumstances, as an alternative, a direct assessment may be made upon the mortgagee.

(ii) Interest arising from sources outside the United Kingdom under mortgages or mortgage bonds is liable to United Kingdom income tax only if the person entitled to the interest is resident in the United Kingdom. The liability is under Case IV of Schedule D and is normally computed on the basis of the full amount arising, but if the person entitled to the interest is not domiciled in the United Kingdom, or is a British subject not ordinarily resident in the United Kingdom, or if the mortgage or mortgage bond forms part of the investments of the foreign life assurance fund of an assurance company, the liability is based upon the amount received in the United Kingdom.

(iii) In considering in any particular case whether the interest arose from a source inside or outside the United Kingdom, it would be necessary to take into account all the relevant circumstances, and it is, therefore, impossible to lay down any general rule. If, however, the interest were paid by a person in the United Kingdom out of funds in the United Kingdom, that would constitute prima facie evidence that it arose from a United Kingdom source. The considerations to be taken into account in deciding this question would not include the nationality of the mortgagee or mortgagor, and would be unlikely to include the place of origin or use of the capital secured by the mortgage.

(iv) The answer to question 1(a) is therefore that a resident in the United Kingdom is chargeable to tax irrespective of his nationality or domicile or of the source of the income. A non-resident is chargeable if the income arises in the United Kingdom.

The effect of the considerations referred to in questions (b), (c), (d) and (e) depends on all the circumstances of each case.

International tax agreements modify these rules as follows:

The double taxation conventions between the United Kingdom and the United States of America and Southern Rhodesia provide that interest arising from sources in the United Kingdom to a person who is resident in the United States of America or Southern Rhodesia and is not resident or trading in the United Kingdom shall be exempt from United Kingdom tax. A similar provision in the convention between the United Kingdom and the Netherlands applies to interest on mortgages of ships or aircraft, but not of real property.

/e. Business

e. Business profits

1. (a) and (b) (i) Business profits from activities carried on in the United Kingdom are chargeable to tax irrespective of the nationality or domicile of the person or legal entity receiving the profits.

(ii) The general rule is that the profits arising from all business activities carried on in the United Kingdom are chargeable on their full amount. This rule is modified where profits arise to a non-resident person from the sale of goods or produce manufactured or produced by him out of the United Kingdom: in such a case the charge to tax may on application be restricted to the "merchanting" profit, that is to the profits which might reasonably be expected to have been earned by a merchant or where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold who had bought from the manufacturer or producer direct. (Rule 12 of the General Rules applicable to All Schedules).

(iii) The profits from business activities carried on outside the United Kingdom as part of a trade or business carried on in the United Kingdom by a resident person e.g. the foreign branch of such a trade or business, are included in the charge on the full profits of the trade or business.

(iv) A trade or business controlled by a person residing in the United Kingdom is chargeable on its full profits although the business activities may be mainly carried on outside the United Kingdom (*San Paulo (Brazilian) Railway Company v. Carter*, 3 T.C.407; *Ogilvie v. Kitton*, 5 T.C.338); *De Beers Consolidated Mines Ltd. v. Howe*, 5 T.C.198).

(v) The profits from a trade or business carried on in partnership outside the United Kingdom which arise to a sleeping partner residing in the United Kingdom who takes no part in the trade or business rank as income from a foreign possession and the charge to tax is in respect of only so much of the profit as is remitted to the United Kingdom (*Colquhoun v. Brooks*, 2 T.C.490).

(vi) Income Tax chargeable in a country with which the United Kingdom has a comprehensive double taxation convention in respect of the business profits of a permanent establishment in that country of a United Kingdom enterprise is allowed as a credit against the United Kingdom tax on that part of the profits of the enterprise which is attributable to that permanent establishment (without allowing any deduction for foreign tax). A similar provision is contained in the double taxation convention between the United Kingdom and South Africa.

2. (a) Yes. Where the foreign activities form a business carried on entirely out of the United Kingdom and are not part of any business carried

/on in the

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on in the United Kingdom, it is only the amount of the profits received in the United Kingdom that is chargeable to tax (see 1(ii) above).

(b) (1) No.

(2) No.

(3) No.

See (a).

3. (a) A foreign enterprise is not taxed in respect of profits arising outside the United Kingdom.

(b) Foreign enterprises, whether carried on by individuals or by corporate bodies, are normally chargeable to tax on the profits of trading in the United Kingdom through a permanent establishment or through an agent.

4. (i) Liability arises if two conditions are satisfied, namely, the existence of a permanent establishment (e.g. a branch) or an agent in the United Kingdom, and trading in (and not merely trading with) the United Kingdom.

(ii) A trustee, guardian, tutor, curator, committee, factor, agent, receiver, branch, or manager in the United Kingdom, whether he actually receives profits on behalf of the non-resident or not, satisfies the first condition, but a bona fide broker or general commission agent acting as such does not. The occasional presence in the United Kingdom of an agent or travelling salesman on behalf of a foreign enterprise would not normally give rise to any income tax liability. (General Rules 5, 6, and 10.)

(iii) It is not possible to define what constitutes trading in the United Kingdom. It may be said, however, that the expression normally includes the sale of goods under contracts made in the United Kingdom, and the manufacture of goods or performance of services in the United Kingdom, but it does not include the mere purchase of goods in the United Kingdom, nor the mere soliciting of orders which are transmitted abroad for acceptance.

(iv) A large number of High Court cases might be quoted to illustrate these principles; typical ones are *Sulley v. A.G.* 2 T.C.149, *Grainger & Son v. Gough* 3 T.C.462, *Smith & Co. v. Greenwood* 8 T.C.193, *MacLaine & Co. v. Eccott* 10 T.C.481, *W. H. Muller & Co. (London) Ltd. v. Lethem* 13 T.C.126.

(v) The answers to the specific questions are therefore:

(a) the maintenance of a fixed place of business in the United Kingdom normally renders the enterprise liable to United Kingdom tax on profits arising from trading in the United Kingdom.

(b) A permanent employed representative in the United Kingdom would render the enterprise liable to United Kingdom tax as in (a).

/(c) Normally

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(c) Normally no liability.

(d) The existence in the United Kingdom of a subsidiary company of a foreign parent company does not give rise to United Kingdom liability in respect of the parent company's activities unless the subsidiary in fact acts as agent of the parent company, but if profits which might be expected to accrue to the subsidiary company are diverted to the parent company, such diverted profits may be taxed as though the subsidiary were an agent of the parent. (This provision does not apply where the parent is a British, Dominion or Colonial Company). (General Rule 7).

(e) None.

(vi) Under reciprocal agreements made under Section 17, Finance Act, 1930, with Sweden, Switzerland, Finland, Newfoundland, Greece, Norway and France business profits derived by an enterprise of one of those countries through an agency in the United Kingdom are exempt from United Kingdom income tax unless the agent has a general authority to negotiate and conclude contracts or unless he has a stock of goods in the United Kingdom from which he regularly fills orders, but if such stock is merely held for convenience of delivery and not for purposes of display, no liability arises on profits of sales made under contracts concluded in the other country.

(vii) Substantially similar rules apply to enterprises of countries with which the United Kingdom has made comprehensive double taxation conventions, and to South Africa. (See Introductory Note).

5. (i) There is no variation to the general rule that the resident enterprises are chargeable on the whole of their world profits and non-resident enterprises on the whole of the profits made from trading in the United Kingdom. Mainly therefore profits are ascertained from the accounts of the enterprise, though in certain circumstances, where profits cannot be ascertained in the case of a non-resident enterprise, the profits may be taken as a percentage of turnover (General Rule 8 Income Tax Act, 1918). In the case of a foreign assurance company carrying on the business of life insurance in the United Kingdom, the income from the investments of the life assurance fund chargeable to tax in the United Kingdom is taken to be the proportion of the fund's total investment income which the premium income earned in the United Kingdom bears to the world premium income.

(ii) The answers to the specific questions are therefore:

(a) only in exceptional cases

/(b) (1) this is

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- (b) (1) this is the normal rule
- (2) only in exceptional cases
- (c) only in exceptional cases.

6. (a) Enterprises operating wholly or partly in a British Dominion or Colony are subject to United Kingdom income tax in accordance with the ordinary rules. The special provisions for Dominion or Colonial income tax relief described in paragraph a (xi) are applicable, however, where no double taxation convention providing for tax credits exists.

(b) No special rules.

(c) (i) Financial institutions generally. Under the general law these institutions receive any income from interest, dividends, etc., under deduction of income tax, in the same way as other recipients of income which is taxable by deduction at the source, although the interest, dividends, etc. may constitute gross receipts of their financial business. In order to avoid double taxation, such income is excluded in computing the profits directly chargeable to tax under Case I of Schedule D.

(ii) Life Assurance Companies

Life assurance business is treated as a separate business apart from any other business carried on by the same company. (Income Tax Act, 1918, Schedule D, Cases I and II, Rule 15.) Life Assurance companies are liable to bear tax in respect of their life assurance business either on profits (under Case I of Schedule D) or on the interest arising from the investments of the Life Fund, whichever is greater (Clerical, Medical and General Life Assurance Society v. Carter (1889) 2 Tax Cases, 437, 22 Q.B.D. 444.) Where the charge is made upon interest and not upon profits, repayment of tax is made in respect of the management expenses of the business, but so as not to reduce the charge below the amount which would be charged if the assessment were made upon profits. (Income Tax Act, 1918, Section 33.) A life assurance company is thus always liable to be assessed in any year in respect of its life assurance business on a sum which may exceed but can never be less than the profits of the previous (basis) year, as ascertained by actuarial valuation.

In computing the profits of life assurance business for assessment under Case I of Schedule D, such part of the profits as belongs to or is allocated to or is reserved for or expended on behalf of policy holders of annuitants is excluded. (Finance Act, 1923, Section 16.)

A life assurance company is chargeable to tax in respect of the investment income of its foreign life assurance fund, so far as the income is derived from securities etc. outside the United Kingdom, on the sums received in the United Kingdom instead of on the full amount of such income. (Rule 2(b) of Case IV and Rule 3(b) of Case V, Schedule D, Income Tax Act, 1918), but if those sums are invested as part of the fund then they are

/not liable

not liable to tax. (Section 46(3) of Income Tax Act, 1918.)

Further, where the foreign life assurance fund is invested in certain United Kingdom Government securities, the income therefrom is not liable to tax. (Section 46(2) of Income Tax Act, 1918.)

(iii) Capital redemption business

Capital redemption business so far as it consists of carrying out contracts effected after 1937 is also treated as a separate business apart from any other business carried on by the same person. In ascertaining whether a loss has been sustained in capital redemption business for the purpose of applying the relief provisions in respect of trading losses any income from investments held in connection with the capital redemption business is treated as part of the profits of that business. (Section 27 of Finance Act, 1938.)

(iv) United Kingdom branches of Life Assurance Companies with their head offices outside the United Kingdom. A proportion of the investment income of the Company's life assurance fund (excluding any annuity fund) wherever the income is received is deemed to be profits within Schedule D and is chargeable under Case III. The proportion is in the ratio of the premiums received from policy holders resident in the United Kingdom and from policy holders resident abroad whose proposals were made to the Company's office or agency in the United Kingdom to the total premiums received by the Company. In the case of a company whose head office is in any British possession, some other basis may be prescribed for ascertaining the proportion of the investment income to be charged.

The amount of any income or profits on which the company has been otherwise charged to tax in respect of its life assurance business is set against and proportionately satisfies the charged computed as above. (Rule 3 of the Rules applicable to Case III, Schedule D, Income Tax Act, 1918.)

(v) Sea and Air Navigation

The total profits derived from sea or air transport by a person (whether individual or company) who is resident in the United Kingdom are chargeable to United Kingdom tax.

A non-resident is chargeable to tax in respect of profits derived in the United Kingdom from sea or air transport. These profits will be computed in accordance with the ordinary rules as explained in 5 above.

Under reciprocal agreements, exemption from tax is allowable to persons who are not resident in the United Kingdom as follows:

United States: Profits from operating ships or aircraft documented of registered in the United States derived by an individual resident in the United States or a corporation or partnership organized under United States law.

/Australia

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Australia and South Africa: Profits from operating ships or aircraft registered in the Dominion derived by a person (individual or company) resident in the Dominion.

Southern Rhodesia: Profits from operating aircraft derived by a person (individual or company) resident in Southern Rhodesia.

All the other territories with which comprehensive double taxation conventions have been made (see introductory note);

Profits from operating ships or aircraft derived by a person (individual or company) resident in the other territory.

France: Profits from operating ships or aircraft registered in France by a company managed and controlled in France.

Greece: Profits from operating ships registered in Greece by a person resident in Greece or a company managed and controlled in Greece.

Iceland, Finland, Norway, Sweden, Denmark: Profits from operating ships derived by a person resident in the country concerned or a company managed and controlled in that country.

(vi) Personal holding companies

There is no special tax on such companies. There are, however, complicated provisions designed to prevent avoidance of sur-tax by individuals by means of what are known as "one-man" companies, i.e., companies under the control of not more than five persons. If such a company incorporated in the United Kingdom does not distribute to its members, in a form liable to sur-tax, a reasonable part of its income (regard being had to the current requirements of its business and to its requirements for maintenance and development), a direction may be made that the whole of its income should be treated as income of the members for sur-tax purposes. If the company does not carry on any trade, but is an investment company, its income is automatically apportioned among its members for sur-tax.

(vii) Moving Picture Producers and Distributors

There are no special rules applicable to these cases. The rentals received are treated in the same way as the sale price of goods sold by a trader. A foreign enterprise distributing films through an agency in the United Kingdom is entitled to claim that the amount chargeable shall not exceed the "merchandising" profit, i.e., the profit which would be made by an independent distributor. Rentals paid to a non-resident producer are not taxable in so far as they represent payment for a due proportion of the cost of production and of the "production" profit.

Under the double taxation convention with the United States, film rentals paid to a resident of the United States who is neither resident nor trading

/in the United Kingdom

in the United Kingdom are exempt from United Kingdom tax. Under the other double taxation conventions (except those with Canada, Australia and New Zealand) the same result is achieved, though by different wording.

(viii) Other particular categories of enterprises

The only special rule applicable to quarries, mines, ironworks, gasworks, waterworks, canals, docks, railways, ferries, and similar concerns is a matter of form and not of substance. The annual value of property occupied for the purpose of a business is normally allowed to be deducted from the profits of the business chargeable to tax under Schedule D, such annual value being separately charged to tax under Schedule A. In the cases mentioned, however, the whole income, including the annual value of the property, is charged in one sum under Schedule D. In either event any rent paid to the owner of the property may not be deducted as an expense in computing the profits, but tax may be deducted from any rent paid.

(ix) Charities

Bodies of persons or trusts established for charitable purposes only are exempt from income tax on all their income (with only minor and uncommon exceptions) (Section 37 Income Tax Act, 1918 and Section 30, Finance Act, 1921) (C.I.R. v. Gull, 21 T.C.374). This exemption does not extend to charities established outside the United Kingdom.

(d) No special rules.

(e) No special rules.

7. (i) As explained above, business profits from activities carried on in the United Kingdom are chargeable to tax irrespective of the nationality or domicile of the person entitled to the profits, and business profits from activities carried on outside the United Kingdom arising to a person residing in the United Kingdom are chargeable to tax (see 1 above).

(ii) Special provisions applicable to foreign life insurance companies, and foreign operators of ships and aircraft have been mentioned above. (See 6 above).

(iii) There are no other cases of difference of treatment of business profits depending on the nationality or domicile of the enterprise or the location of the property or the origin of the income.

8. (a) There are no such provisions in United Kingdom income tax law. A provision of this type in the law relating to profits tax is mentioned in 9(b) below.

(b) The application of double taxation agreements to business profits has been dealt with above. (See 2, 4, 5, 6, (Sea and Air Navigation) above)

9. (a) Excess Profits Tax

This tax was repealed by the Finance Act, 1946, and ceased to be chargeable as from the end of that year.

/(b) Profits Tax

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(b) Profits Tax

(i) This tax, formerly known as the national defence contribution, was originally imposed by the Finance Act, 1937. As from the beginning of 1947 the basis on which the tax is chargeable has been substantially modified by the Finance Act, 1947. The tax as now imposed applies, with certain exceptions, to trades or businesses (including businesses consisting of the holding of investments or other property) carried on by a body corporate, or by an unincorporated society or other body, being trades or businesses carried on in the United Kingdom or carried on abroad by such a body or society ordinarily resident in the United Kingdom.

(ii) The tax is chargeable by reference to the profits and distributions of profits for each "chargeable accounting period", which is normally the yearly accounting period of the business. A differential rate is applicable to distributions. The profits of the trade or business are required to be computed for the purpose of the tax on Income Tax principles, subject to certain modifications. The most important modifications are that interest on borrowed money is allowed as a deduction, that investment income other than dividends and distributions of profit received from bodies corporate chargeable to profits tax, i.e. other than "franked investment income", is, with certain exceptions, required to be included, and that the annual value of premises owned and occupied for the purposes of the trade or business is not deducted.

(iii) The tax is chargeable, as from 1 January 1947, at the rate of 25%, with relief at the rate of 15%, on profits not distributed. (Section 30, Finance Act, 1947 as amended by Section 7, Finance (No.2) Act, 1947). In effect, therefore, the rate of 25%, is chargeable only on distributed profits and undistributed profits are chargeable at 10%. Where the distributions in a particular period exceed the profits of the period, provision is made for a charge on the excess so as to offset corresponding relief given for previous periods in respect of profits not distributed.

(iv) No tax is, however, payable where the profits for a chargeable accounting period of twelve months, including franked investment income, do not exceed £2,000. Where the profits, including such income, exceed £2,000 but do not exceed £12,000, an abatement is allowable equal to the proportion of 1/5th of the amount by which such profits fall short of £12,000 which is apportionable to the profits chargeable to Profits Tax, i.e. to profits exclusive of franked investment income.

(v) The law relating to the tax includes special provisions under which businesses carried on by persons not ordinarily resident in the United Kingdom are chargeable to the tax only at the lower, i.e. 10% rate. In the case of

/United Kingdom

United Kingdom subsidiaries of foreign parent companies, provision is made for the exclusion of dividends paid by the subsidiary to the parent company in computing distributed profits chargeable at the 25% rate (Section 39, Finance Act, 1947).

(vi) The comprehensive double taxation conventions listed in the introductory note above apply to profits tax as well as to income tax.

The profits tax legislation also includes provision exempting from the tax profits arising from the business of shipping, air transport and certain agencies in cases where:

- (i) relief from income tax is granted by virtue of an arrangement made with the Government of another country for relief from double taxation; and
- (ii) the other country grants reciprocal exemption from all taxes on profits. (Rule 6, Fourth Schedule, Finance Act, 1937).

Existing arrangements to which this provision applies are those with Sweden, Switzerland, Finland, Newfoundland, Greece, Norway and France relating to agency profits described in 4 above, and those with France, Greece, Iceland, Finland, Norway, Sweden and Denmark relating to sea and air transport described in 6 above.

(c) There are no special rules relating to the taxation of illicit profits.

f. Income from personal tangible property

1. (i) A person (individual or company) resident in the United Kingdom is chargeable to tax in respect of his total income from all sources, irrespective of his nationality or place of domicile, and without regard to any of the considerations referred to in questions (a) to (f). In the case of income from sources outside the United Kingdom the liability of an individual who, though resident in the United Kingdom, is not domiciled in the United Kingdom or, being a British subject, is not ordinarily resident in the United Kingdom, is limited to the amount of such income remitted to or received in the United Kingdom.

(ii) An individual or company not resident in the United Kingdom is chargeable to tax in respect of all income from sources within the United Kingdom, without regard to any of the other considerations referred to, except as indicated below.

2. Most annual interest and all dividends arising in the United Kingdom are subjected to taxation at the source. The payer of the income is required to deduct income tax at the standard rate of 9/- in the £, and to account for it to the Revenue authorities unless the payment is made out of income which has already been subjected to tax at the standard rate in his hands.

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hands. The profits of a company are charged to tax at the standard rate without any deduction for dividends or annual interest payable out of those profits, and the company is entitled to deduct tax at the standard rate from such dividends and interest. If the recipient of the income is entitled to personal allowances, proportionate personal allowances, or any other relief from tax at the standard rate, repayment of an appropriate part of the tax deducted from the dividends or interest may be claimed from the Revenue authorities. Interest-arising in the United Kingdom which is not subjected to taxation at the source is liable to direct assessment in the hands of the recipient.

3. No.

4. Certain British Government securities are issued with the condition that the interest thereon shall be exempt from United Kingdom income tax if the beneficial owner is not ordinarily resident in the United Kingdom. In some, but not all, of these cases the exemption does not apply to exclude the interest from the computation of the profits of a financial concern.

There are no other modifications of the general rule of the type contemplated by question 4.

5. See 2 above.

Double taxation conventions

(i) All the comprehensive double taxation conventions to which the United Kingdom is a party modify in some respects the rules set out above.

(ii) In every case, a resident in the United Kingdom, whether an individual or a company, is allowed a credit against the United Kingdom tax on income from abroad in respect of any tax imposed by the country of origin of the income; the tax, if any, imposed by the country of origin is commonly either reduced or entirely given up under the provisions of the convention. Under most of these conventions a resident in the United Kingdom who receives dividends from the other country is also allowed a credit in respect of the appropriate proportion of any tax paid on its profits by the company paying the dividend in addition to any tax charged on the dividend itself.

(iii) None of the conventions modifies the rule explained in 2 above, whereby a United Kingdom company may deduct from its dividends the tax at the standard rate paid upon its profits, but under all the conventions an individual who resides in the other country and is neither resident in the United Kingdom nor engaged in trade or business in the United Kingdom is exempt from any United Kingdom sur-tax upon dividends from United Kingdom sources.

/Under

Under the conventions with the United States, Southern Rhodesia and the Netherlands, interest paid from a source within the United Kingdom to a person residing in the other country who is neither resident nor trading in the United Kingdom is exempt from United Kingdom income and sur-tax, but in the case of the Netherlands the exemption excludes interest on mortgages on real property. In the case of the United States and Southern Rhodesia such exemption does not apply in the case of interest paid by a company to another company which controls more than 50% of the voting power of the company paying the interest. There is no exemption of interest under the other conventions.

g. Income from royalties on patents, etc.

1. (a) and (b) (i) Royalties paid in respect of the user of a patent, trade mark, or similar property, are chargeable to United Kingdom income tax if the recipient is resident in the United Kingdom, without regard to the place of origin of the royalty. Such royalties are also chargeable to tax if paid in respect of the user of a patent in the United Kingdom, whether the recipient is resident in the United Kingdom or not, and without regard to his nationality or place of domicile. Royalties paid to a non-resident in respect of the user of a patent outside the United Kingdom are not chargeable to tax.

(ii) Where a payment of patent royalties is made in respect of past user extending over a period of two or more years, the person to whom the payment is made may claim an adjustment of his liability to income tax (including sur-tax) to what it would have been if the royalty payment had been spread over the number of complete years (subject to a maximum of six) included in the period of user.

(iii) Where patent rights are sold outright for a capital sum the seller is charged to Income Tax upon that sum less any sum he may previously have paid in acquiring the rights. The charge to tax applies to sales of any patent rights by a resident and to sales of United Kingdom patent rights by a non-resident. In the former case one-sixth of the sum is charged to tax for the year of receipt and for each of the succeeding five years, or at the option of the recipient the whole sum may be charged to tax for the year of receipt. In the latter case (sale by a non-resident) tax is charged by deduction from the purchase price, but the non-resident recipient may claim an adjustment of his liability to income tax (including sur-tax) to what it would have been if the capital sum had been spread evenly over six years.

(iv) Expenses incurred by a trader in actually devising a patented invention or in connection with the grant or renewal of a patent are allowed

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as a deduction from profits. Similar expenses incurred by a non-trader are allowed as a set off against his income from patents.

(v) Earned income relief (see paragraph a(vi)) is allowable in respect of any income from patents where the person receiving the income actually devised the patented invention, whether alone or jointly with any other person.

(c) The origin of the capital used in the exploitation of the patent is not relevant.

The above rules are modified by international tax agreements as follows:

Where patent royalties are paid to a resident in any of the countries with which the United Kingdom has made comprehensive double taxation conventions (except Canada) who neither resides nor trades in the United Kingdom, the royalties are exempt from United Kingdom tax.

h. Income from royalties on copyrights and other intellectual properties

1. (a) and (b) (i) Copyright royalties received by an author residing and exercising his profession in the United Kingdom are treated as forming part of his professional profits and gains, and as such are charged to tax irrespective of his nationality or domicile, or of the country protecting the copyright, or of the nationality or domicile of the licensee.

(ii) Where the usual place of abode of the recipient of copyright royalties, other than in respect of cinematograph rights, paid by any person in the United Kingdom is not within the United Kingdom, the royalties are payable subject to deduction of income tax at the standard rate, after making allowance for agent's commission. (Section 25 of the Finance Act, 1927, and Section 18 of the Finance Act, 1930.) This taxation does not depend on the nationality or domicile of the licensor or licensee, but does not apply to royalties paid in respect of copies of works exported from the United Kingdom for distribution outside the United Kingdom.

(iii) The owner of a copyright in the United Kingdom, not being the author, whose usual place of abode is in the United Kingdom, is chargeable by direct assessment in respect of the royalties as being income from property in the United Kingdom, irrespective of his nationality or domicile.

(iv) The owner of a copyright not in the United Kingdom who, not being the author, resides in the United Kingdom is chargeable on the royalties arising to him, unless he is not domiciled in the United Kingdom, or being a British subject is not ordinarily resident in the United Kingdom, in either of which cases he is chargeable only on the sums remitted to him in the United Kingdom.

/(v) Publishers

(v) Publishers who carry on business in the United Kingdom are chargeable on their profits from such business, including any profits from the user of copyrights they have acquired.

(c) The origin of the capital used in the exploitation of the copyright is not relevant.

The above rules are modified by international tax agreements as follows:

Where copyright royalties are paid to a resident in any of the countries with which the United Kingdom has made comprehensive double taxation conventions who neither resides nor trades in the United Kingdom, the royalties are exempt from United Kingdom tax. In the case of the United States, the exemption extends also to rentals for cinematograph films. In other cases, film rentals are dealt with as described in (e) 6 (vii).

j. Private pensions and annuities

Pensions

1. (i) Pensions payable to persons who are resident in the United Kingdom for income tax purposes are, in general, liable to income tax under Schedule E of the Income Tax Act, 1918, on their full amount; but pensions paid by or on behalf of an employer resident abroad are liable to tax on the basis of the amounts paid or received in, remitted to or brought into the United Kingdom (under Case V of Schedule D or under Schedule E - see Section 17, Finance Act, 1923, as to certain cases of former employees of Dominion or Colonial Governments). This rule is subject to the further exception that under double taxation conventions pensions paid for services - other than services in connection with trade - rendered to the following Governments are not charged to tax in the circumstances stated:

United States and Netherlands: exempt unless the pensioner is a British subject and not also an American or Dutch citizen. Canada, South Africa and Southern Rhodesia: exempt if the remuneration was exempt. British colonies listed in opening note: exempt unless the pensioner is ordinarily resident in the United Kingdom.

(ii) Pensions paid by United Kingdom employers to persons resident abroad are in general liable to tax; but pensions paid for services rendered outside the United Kingdom the earnings of which were not liable to tax (see paragraph (k)) are not liable to tax if the pensioner is not resident in the United Kingdom. Pensions paid by the United Kingdom Government to persons resident in Australia or New Zealand are exempt from United Kingdom tax under the double taxation conventions with these countries.

/(iii) Pensions

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(iii) Pensions paid by employers resident outside the United Kingdom to persons resident outside the United Kingdom are not liable to tax.

(iv) Wounds and disability pensions paid to members of the Armed Forces, similar pensions paid by foreign governments, and certain allowances to civilians in respect of war injuries, are not taxed.

(v) Subject to these general considerations the answers to the specific questions, so far as pensions are concerned, are:

(a) The nationality of the payer is irrelevant. The nationality of the payee may affect the amount of tax payable by a pensioner resident abroad (cf. paragraph k(3)).

The domicile (i.e., the country of permanent home) of the payer and payee is not relevant in deciding whether a pension is taxable under Schedule E or Schedule D, Case V; but as explained above the residence of the payer may be relevant for this purpose.

(b) The place of payment of the income does not affect the liability to tax.

(c) The liability to tax of a pension follows in general the liability to tax of the remuneration for the services, as to which the place of employment may be relevant (see paragraph (k)).

Annuities

(vi) All annuities arising from sources in the United Kingdom (other than annuities payable out of a public revenue, which are liable under Schedule C) are liable to United Kingdom income tax under Case III of Schedule D of the Income Tax Act, 1918. The normal procedure is to charge tax at the standard rate in respect of the annuity on the payer who is entitled to deduct and retain an equivalent amount on paying the annuity. In certain circumstances, as an alternative, a direct assessment may be made upon the annuitant.

(vii) Annuities arising from sources outside the United Kingdom are liable to United Kingdom Income Tax only if the annuitant is resident in the United Kingdom. The liability is normally computed on the basis of the full amount arising, but if the annuitant is not domiciled in the United Kingdom, or is a British subject not ordinarily resident in the United Kingdom, or if the annuity arises from the investments of the foreign life assurance fund of an assurance company, the liability is based upon the amount received in the United Kingdom. The charge is in general under Case V of Schedule D, except that in the case of annuities payable through a person in the United Kingdom out of the public revenue of any country outside the United Kingdom the charge is under Schedule C.

(viii) In considering in any particular case whether an annuity arose from a source inside or outside the United Kingdom, it would be necessary to

/take into

take into account all the relevant circumstances, and it is, therefore, impossible to lay down any general rule. In the case of an annuity payable under a private contract, however, if the annuity were paid by a person in the United Kingdom out of funds in the United Kingdom, that would constitute prima facie evidence that it arose from a United Kingdom source. The considerations to be taken into account in deciding this question would not include the nationality of the payer or payee of the annuity.

(ix) The answers to the specific questions, so far as annuities are concerned, are therefore:

(a) a resident in the United Kingdom is chargeable to tax in respect of any annuity, wherever it arises, and irrespective of his nationality or domicile. A non-resident is chargeable in respect of an annuity from United Kingdom sources.

(b) and (c). Both these considerations may be relevant (see (viii) above).

Pensions and annuities - international tax agreements

(x) Under all the comprehensive double taxation conventions made by the United Kingdom, and under the convention with South Africa, private pensions and purchased annuities arising from United Kingdom sources to a person who is resident in the other country and is not resident or trading in the United Kingdom are exempt from United Kingdom tax.

k. Earned income from personal services private employment or liberal professions (fees, wages, salaries)

l. In general, a person who is resident in the United Kingdom is liable to income tax on his earned income from all sources whether in the United Kingdom or abroad; a person who is not so resident is liable to United Kingdom tax on earned income only if it arises from sources within the United Kingdom. In the case of income from United Kingdom sources the liability (under Case II of Schedule D or Schedule E) is based on the full income; in the case of income from sources outside the United Kingdom the liability (under Case V of Schedule D) is based on the amounts remitted to or received in the United Kingdom.

In general the source of the income depends on where the employment or profession is exercised but there are some exceptions to this rule. The income from a "public office or employment of profit in the United Kingdom" (Rule 6 of Schedule E, Income Tax Act, 1918) arises from a United Kingdom source and is liable to tax whether the holder of the office resides, or carries out his duties, in the United Kingdom or abroad; under this Rule members of the British Forces, British Civil Servants and directors of British companies are liable to tax on their earnings,

/whether

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whether they serve in the United Kingdom or abroad. Further the Courts have held that a person employed abroad by a British company but resident and receiving part of his pay in the United Kingdom received income from a United Kingdom source and was liable to tax under Schedule E on his full earnings; they have also held that an employee of a foreign concern who worked partly in the United Kingdom and partly abroad under a contract signed abroad and whose pay was paid wholly abroad received income from a foreign source.

Subject to these general considerations the answers to the specific questions are -

- (a) a British national resident abroad is not liable to income tax on income from foreign sources such as a profession exercised wholly abroad or an employment abroad under a foreign employer;
- (b) a British national resident abroad is liable to income tax on income from domestic sources (e.g., income from a United Kingdom Government post abroad or the directorship of a British company or a profession exercised in the United Kingdom) but not on income from an ordinary employment under a United Kingdom employer if it is carried on wholly abroad;
- (c) a British national resident in this country but carrying on a profession or employment (other than a "public office" within Rule 6 of Schedule E) wholly abroad is taxable under Case V of Schedule D on the basis of the income paid or received in, remitted to, or brought into this country;
- (d) the length of residence abroad and in the United Kingdom are relevant factors in deciding whether a British national is resident in the United Kingdom for income tax purposes. If he was normally resident in the United Kingdom he would not cease to be resident if his absence abroad did not include at least a complete income tax year (ending 5 April) and even if his absence did include a complete income tax year, he would remain resident here for income tax years other than years of complete absence if his visits amounted to as much as three months a year, on average, or if a house were maintained here for his use and he visited this country year by year.

2. The nationality of the individual entitled to the income does not affect the liability to income tax (but see 3. below).

The answers to the specific questions are therefore

- (a) As at 1 (b)
- (b) As at 1 (c)
- (c) As at 1 (d).

/3. Although

3. Although nationality does not affect the liability to income tax it may in certain circumstances affect the amount of tax payable. A foreigner who is resident in the United Kingdom for income tax purposes can claim the same income tax allowances and reliefs as if he were a British subject; but in general a foreigner who is not so resident is not entitled to claim any income tax allowances or reliefs against income from United Kingdom sources, whereas a British national not resident in the United Kingdom can claim a proportion of his normal allowances and reliefs (Section 24, Finance Act, 1920) (see paragraph A(I)(a)).

Apart from this point the answers to questions 1 and 2 do not depend on the nationality or domicile of the payee or payer. The place of payment of the income may, however, be a relevant factor in some cases of employments carried on outside the United Kingdom (see the second paragraph of 1 above).

4. (a) In general civilian employees of the United Kingdom Government (other than purely temporary employees in minor posts abroad) are liable to tax on their earnings whether they serve in the United Kingdom or abroad. Purely temporary employees working in minor posts abroad are not liable to tax on their earnings if they are not resident in the United Kingdom for income tax purposes.
- (b) British nationals employed in the United Kingdom by foreign governments are liable to tax on their earnings in the ordinary way. (This normally applies whether or not they also possess other nationality, but British nationals employed by the United States or Netherlands Governments are exempt, under double taxation conventions, if they also possess American or, as the case may be, Netherlands, nationality.) Foreign Government employees working in the United Kingdom who are not British nationals are not liable to tax on their earnings unless they are employed in connection with a trade, business or other undertaking carried on for the purposes of profit (Section 20, Finance Act, 1930).
Foreign Government employees working outside the United Kingdom are not liable to income tax on their earnings so long as they are not resident in the United Kingdom.
- (c) The answer to this is covered by sub-paragraphs (a) and (b) above.
- (d) Military personnel of the United Kingdom Forces are, like Civil Servants, liable to tax on their earnings wherever they are serving.

/Members

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Members of the Armed Forces of foreign governments on duty in the United Kingdom would not be taxed on their Service pay where a double taxation convention is in operation.

- (e) Foreign diplomats, members of their staffs and foreign consular staffs (other than British nationals) serving in the United Kingdom are not liable to tax on their earnings. A consul for a foreign State in the United Kingdom is not taxed on his earnings from his post as consul, whatever his nationality (Section 20, Finance Act, 1930).

Diplomatic and consular personnel in United Kingdom Government service are taxed in the same way as other Civil Servants (see sub-paragraph (a) above).

5. The same principles apply in the taxation of professional earnings as in the taxation of income from employments.

Double Taxation Conventions

Two modifications of the above rules are made by double taxation conventions (apart from the modifications already referred to).

1. A resident of the other country who performs services in the United Kingdom on behalf of a resident of the other country and is taxed there is exempt from United Kingdom tax if he is in the United Kingdom for less than 183 days in the year of assessment. This exemption does not apply to public entertainers except in the case of those from the U.S.A.
2. A professor or teacher from the other country who visits the United Kingdom to teach for a period not exceeding two years is exempt from United Kingdom tax on his remuneration.

Other Direct Taxes

There are three other direct taxes imposed in the United Kingdom, all of only minor importance.

(1) Land Tax

Land tax is an annual tax which was originally imposed upon all land and buildings in Great Britain (but not in Ireland). Owing to redemptions and other causes, much real property is not now liable to the tax. The rate of tax payable on property which is still chargeable varies according to the locality, but cannot exceed 1/- in the £ (5%) of the annual value as determined for income tax purposes. The nationality or domicile of the owner of the property is of no relevance.

Total relief from the tax is granted if the owner of the property has a total income not exceeding £160 a year, and an abatement of one-half of the tax is allowed to owners whose total income does not exceed £400.

/The liability

The liability to land tax may be redeemed by the owner on payment of an amount equal to 25 times the tax assessed on the property for the year 1939/40.

(2) Mineral Rights Duty

Mineral rights duty is an annual tax of 1/- in the £ (5%) on the rental value of all rights to work minerals and of all mineral way leaves in the United Kingdom. It is not charged in respect of clay, sand, chalk, limestone or gravel. The nationality or domicile of the recipient of the rent (or of the proprietor if he works the minerals himself) is not relevant.

(3) Corporation Duty

Corporation duty is an annual tax of 5% of the net annual value, income or profits of all real or personal property held by a body of persons, except bodies carrying on a trade or business, local authorities, friendly societies, trade unions, and charities. The duty was imposed by way of compensation to the Exchequer for the non-liability to death duties of property vested in bodies corporate, but the exemptions are so wide that the liability falls only on a small number of associations and societies.

/II. Capital

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II. Capital Gains Tax

The taxation, in certain circumstances, of capital sums received for the sale of patent rights has been described in the reply to I.G. Apart from this provision there is no taxation of capital gains in the United Kingdom other than where the gains form part of the normal annual profits of a business such as a bank or insurance company.

III. Capital and Property Taxes

a. General property tax

(i) The "special contribution" is a "once-for-all" levy imposed by the Finance Act, 1948. It can be regarded as a levy on capital, but is measured by the investment income of individuals for the fiscal year 1947-48. It is chargeable in the case of individuals whose "total income" for 1947-48 was more than £2,000 and whose "investment income" for that year was more than £250. It is not assessed on the income of companies or other artificial persons. "Total income" is computed, subject to certain modifications, in the same way as total income for income tax purposes (see paragraph I a(v) above): investment income means, subject to certain modifications, income other than earned income (earned income means, broadly, income from employments, pensions, trades, professions or vocations).

(ii) The rates of contribution are as follows:

<u>Slice of Investment Income</u>	<u>Rate of Contribution in the £</u>
First £250	Nil
£250 - £ 500	2s. 0d
£500 - £1,000	4s. 0d
£1,000 - £2,000	6s. 0d
£2,000 - £5,000	8s. 0d
Excess over £5,000	10s. 0d

If, however, an individual's total income exceeds £2,000 by a small margin only, the amount of contribution is limited to the excess of the total income over £2,000.

(iii) As a general rule the income of a married woman living with her husband is treated as the husband's income but if the husband does not pay the tax can be recovered from the wife.

(iv) If the investment income of an individual includes income arising under a trust, he can in the ordinary case either (a) pay the full contribution himself and recover from the trustees the part attributable to his trust income or (b) disclaim liability for that part, leaving the Revenue to collect it from the trustees direct. Contribution is not however recoverable either by a beneficiary or by the Revenue from a foreign trust, i.e. a trust governed by the law of any place outside the United Kingdom.

/(v) Contribution

(v) Contribution is payable on 1 January 1949. It may be paid in advance under discount of 2% per annum; if paid after 1 January it carries interest at 2% per annum from that date.

(vi) All individuals domiciled in this country are chargeable whether or not they are resident. An individual who was not domiciled in the United Kingdom for the year 1947-48 is not chargeable to contribution unless he was resident in the United Kingdom for that year and also had been ordinarily resident here for the ten years ended 5 April 1948. If an individual receives investment income from sources outside the United Kingdom but is not chargeable to income tax on that income because he is not resident, or, if resident, is not domiciled or not ordinarily resident here and the income is not remitted to this country (see paragraph I a (iv) above), he is not chargeable to contribution on that income even though he may be chargeable to contribution on his other investment income.

(vii) A measure of relief from contribution may be claimed by the directors of a private company on dividends received from the company if they have a controlling interest in the company and work full time in its business. Relief may also be claimed in certain circumstances where the income received in 1947-48 from any assets is more than a full year's income.

(viii) There is no other general property tax in the United Kingdom.

(xi) The answers to the specific questions are therefore:

1. (a) No
- (b) Yes: chargeable for one year only.
- (c) No
2. (a) No
- (b) No
- (c) No
- See (vi) above.
3. Not relevant, since only investment income is chargeable.
4. No.

b. Real Property Tax

There is no tax upon the capital value of real property in the United Kingdom.

As already explained under I (b), the annual value of real property in the United Kingdom is regarded as income of the owner for income tax purposes, whether the property is occupied by him or let to a tenant.

c. Personal Property Tax

There is no personal property tax in the United Kingdom.

d. Capital Stock Tax

(i) Stamp duties are chargeable upon -

the amount

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1. the amount of the authorized capital or of any increase thereof, of limited liability companies registered in the United Kingdom or set up by Act of the United Kingdom Parliament;
2. the amount, or any increase thereof, contributed by a limited partner in a registered limited partnership to the partnership capital;
3. the amount of the loan capital (debenture stock, etc.) of any local authority, corporation, company or body of persons formed or established in the United Kingdom.

(ii) All these duties are ad valorem duties. In no case is the amount of duty affected by the place in which the company etc. operates.

(iii) The answers to the specific questions are therefore:

1. (a) Foreign corporations are not liable.
(b) No.
(c) No.
2. No.

IV. Succession and Gift Taxes

1. The three Death Duties which are chargeable in relation to deaths occurring at the present time may be divided into two classes. The first class is represented by the Estate Duty, which is a mutation duty payable on the passing of property on death. The second comprises the Legacy and Succession Duties, which are acquisition duties payable on the acquisition of property by beneficiaries. A brief description of these three duties is given below. There is no gift tax as such.

Estate Duty

2. The Estate Duty was imposed by the Finance Act, 1894, and is leviable under the provisions of that Act as varied from time to time by subsequent Finance and other Acts.

It is an ad valorem graduated tax. Generally speaking it is charged on the principal value of:

- (i) All property situate in Great Britain whether moveable or immoveable, settled or not settled, which is deemed to pass on death: the liability in respect of such property attaches irrespective of the domicile or nationality of the deceased; and
- (ii) Moveable property situate abroad if the owner on whose death it passes was domiciled in Great Britain or if the property passes under a disposition governed by the laws of Great Britain.

Property which is deemed to pass on death includes:

- (a) Property of which the deceased was competent to dispose (e.g., by the exercise of a general power of appointment) whether actually disposed of or not.

/(b) Property in

- (b) Property in which the deceased, or any other person, had an interest ceasing on the death of the deceased to the extent to which a benefit arises by the termination of that interest (e.g., the cesser of an annuity).
 - (c) Property the subject of a donatio mortis causa (i.e., a gift in contemplation of death and to take effect only in that event).
 - (d) Property the subject of a gift inter vivos made by the deceased without reservation within three years of death in the case of a death before 10 April, 1946, and within five years in the case of a death on or after that date. In the case of gifts for public or charitable purposes the period is twelve months in all cases. Monies paid or applied in reduction of debts are in certain circumstances to be treated as a gift by the deceased. Exemption is granted where the gift is made in consideration of marriage; or is shown to have been part of the deceased's normal expenditure and to have been reasonable; or in the case of any donee does not exceed £100 in value. There are special exemptions in the case of gifts to the National Debt Commissioners, gifts of land to the National Trust for the public benefit, and gifts to the Crown during the war. There is also power to remit the Death Duties in respect of lands given to the Commissioners of Works or to a local authority for preservation as an ancient monument.
 - (e) Property the subject of a gift inter vivos made by the deceased at any time if possession and enjoyment of the subject matter of the gift was not immediately assumed by the donee and retained by him to the entire exclusion of the deceased or of any benefit to him by contract or otherwise.
 - (f) Property passing under any settlement made by the deceased under which he reserved any interest or power to regain an absolute interest.
 - (g) Property which the deceased has voluntarily caused to be vested in himself and another person jointly either by transfer or by purchase in the joint names so that the other person takes an interest by survivorship on the death of the deceased.
 - (h) Money receivable under a policy of insurance effected by the deceased on his life so far as kept up by him for the benefit of a nominee or assignee.
 - (i) Policy Monies, annuities and other benefits purchased or provided
 - (1) by the deceased, either alone or with some other person, or
 - (2) by a person who was at any time entitled to any property derived from the deceased, to the extent of the benefit arising or accruing on the deceased's death.
- /(j) Property

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- (j) Property in which an interest limited to cease on a death was disposed of or determined, whether wholly or partly and whether for value or not, within a specified period before the death, if there was no reservation, or at any time if there was such a reservation.
- (k) Assets, or a proportion thereof, of a company under the control of not more than five persons where the deceased had at any time made a transfer of property to the company and within a certain period enjoyed any benefits from the company.

3. Immoveable property situate out of Great Britain devolving as such is not liable to Estate Duty. Moveable property situate out of Great Britain is chargeable with Estate Duty:

- (i) If the owner was domiciled (i.e., had his permanent home) in some part of Great Britain (except in certain cases where it passes under a disposition made by a person domiciled abroad); or
- (ii) Irrespective of the deceased's domicile or nationality, if it passes under a disposition governed by the laws of Great Britain.

4. The classification of property as "immoveable" or "moveable" is relevant only where some non-British element is involved. Immoveable property comprises lands and buildings and interests therein, including leasehold interests: moveable property includes all other property whether tangible (such as goods, furniture, etc. having a physical situation) or intangible (such as stocks, shares, policy monies, etc. consisting only of rights).

5. For fiscal purposes a locality has to be assigned to every type of property. As regards tangible property the physical situation of the thing owned determines its locality, but the locality of intangible property varies with the type of property. For instance, a simple contract debt is situate where the debtor resides, but if the debt is created by a document under seal it is situate under English, though not under Scottish, law in the place where the document is found.

The Finance (No. 2) Act, 1945, and the Finance Act, 1948, provided for statutory effect to be given by Order in Council to agreements made with other countries for determining the situs of property for the purposes of Estate Duty. Such agreements have been made with the United States of America, Canada, South Africa and the Netherlands.

6. Estate Duty is leviable according to a graduated scale. With certain exceptions (e.g., in the case of property in which the deceased never had an interest, and in the case of small estates not exceeding £2,000 exclusive of property settled otherwise than by the deceased's will) all property passing or deemed to pass on the death is, if chargeable with Estate Duty, to be aggregated to form one dutiable estate. The rate of duty charged is fixed by reference to the total value of the property so aggregated.

Property exempted from aggregation is treated as an estate by itself.

The present scale of rates of Estate Duty, imposed by the Finance Act, 1946, is set out in an appendix to this note. Marginal relief is given where the total value of the estate slightly exceeds one of the steps in the scale.

7. The value upon which Estate Duty is payable is the principal value, as at the date of death, of the property passing, and such value is the price which the property would fetch if sold in the open market at the time of the death of the deceased. The Courts have held that an open market where no purchaser can be excluded has always to be postulated. The Finance Act, 1940, contains provisions for the valuation on an assets basis of shares and debentures in certain companies in special circumstances.

In estimating the net principal value of the property liable to duty, deduction is allowed for reasonable funeral expenses and, subject to certain restrictions, for debts and incumbrances created bona fide for full consideration for the deceased's own use and benefit. There is a restriction on deduction where the consideration for the debt was given by a person who at any time was entitled to property derived from the deceased.

8. A quick succession allowance is given where Estate Duty is payable in respect of land or a business twice within five years. Allowance is also given for certain older duties payable before 1 August, 1894, and in certain circumstances for Settlement Estate Duty previously paid in respect of the property passing.

9. Of the provisions for exemption and relief from Estate Duty the following may be mentioned:

- (a) Where Estate Duty has been paid in respect of settled property, Estate Duty is not again payable on the death, during the continuance of the settlement, of the husband or wife of the persons on whose death the Estate Duty was paid, unless such husband or wife was competent to dispose of the property.
- (b) To the extent that property passes on the death of the deceased only by reason of a bona fide purchase for full consideration from the deceased, it is exempt from Estate Duty. Special provisions apply in the case of transfers to certain relatives and companies.
- (c) The estates of common seamen, marines, soldiers and airmen, dying in His Majesty's service, are exempt from Estate Duty, but this exemption does not extend to property settled on the deceased by another person.

/(d) In other cases,

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- (d) In other cases, subject to the recommendation of the appropriate Department, relief from death duties in respect of property passing to certain near relatives is given if the death occurs on active service, service of a warlike nature or service which involves the same risks. Total relief is given where the value of the property so passing does not exceed £5,000, a percentage only of the duty being payable in respect of any excess above this amount. Relief is also given in the case of the masters and members of crews of ships and civilians who die from causes arising out of the operations of war.
- (e) Certain British Government securities are expressly exempt from duty while in the beneficial ownership of persons neither domiciled nor ordinarily resident in the United Kingdom.
- (f) Where moveable property situated in a British Possession is liable both to British Estate Duty and to a death duty in the Possession on the same death, relief may in certain circumstances be given so that the property pays, in effect, only the larger of the two taxes. Similar arrangements have been made in regard to Northern Ireland and Eire. The Finance (No. 2) Act, 1945, provided for statutory effect to be given by Order in Council to agreements with other countries (whether part of the British Commonwealth or not) for the avoidance of double taxation. Agreements have been made with the United States of America, Canada, and South Africa.

In the case of other countries where no arrangement for relief from double taxation exists, a deduction for the duty paid where the property is situate is allowed against the value of the property for the purpose of the British Estate Duty.

Collection of Estate Duty

10. An application for a grant of representation must be accompanied by an affidavit containing particulars of all the property passing on the death of the deceased. On delivery of the Inland Revenue Affidavit the executor must pay the Estate Duty in respect of all personal property of which the deceased was at his death competent to dispose. The duty on any other personal property passing on the death may be paid at the same time; otherwise it is payable within six months after the death. Estate Duty on realty is payable within twelve months of the death, but it may be paid in eight yearly or sixteen half-yearly instalments. Estate Duty payable in respect of an annuity provided by the deceased may be paid in four yearly instalments, the first a year after death. Payment of duty in respect of an interest in expectancy may if desired be deferred until the property falls into possession, but the value at the date of the deceased's death must be included

/for the purposes

for the purposes of aggregation. Simple interest upon Estate Duty, at present at the rate of 2 per cent. per annum net, is normally charged as from the date of death in respect of personalty and as from twelve months after the death in respect of realty.

Legacy Duty and Succession Duty

11. Legacy Duty and Succession Duty together form the second of the two classes of Death Duties chargeable in connection with deaths occurring at the present time. They are acquisition duties on beneficiaries and are complementary to one another. The wide scope of the Succession Duty Act, 1853, embraces everything within the scope of the Legacy Duty Acts, but there is express provision that no person charged with Legacy Duty shall be charged also with Succession Duty in respect of the same property.

Charge to Legacy Duty

12. The charge of Legacy Duty, the extent of the claim and the basis of computation are still regulated by the Legacy Duty Act, 1796, and the Stamp Act, 1815, as amended by subsequent Acts. The duty is at present payable in respect of legacies (i.e., gifts of personal estate by will), residues of personal estate devolving by will or intestacy and donations mortis causa. Leaseholds and gifts taking effect out of the proceeds of real estate have been exempted from Legacy Duty and are chargeable with Succession Duty.

13. Legacy Duty is payable in respect of all the moveable property wherever situate of a testator dying domiciled in some part of Great Britain, and may extend to immoveable property abroad which is subject to a trust for sale. Conversely no Legacy Duty is payable in respect of moveable property either abroad or in this country on the death of a testator domiciled outside Great Britain.

14. The rates at which Legacy Duty is payable vary according to the consanguinity of the beneficiary to the testator or intestate. The rates of duty are given below:

Consanguinity of beneficiary to testator or intestate (Relatives of the half blood stand on the same footing as those of the whole blood)	Rate of duty per cent.
Husband or wife	2
Lineal ancestor or issue	2
Brothers and sisters or their descendants	10
Any other person	20
Public or charitable purposes	10

/A beneficiary

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A beneficiary married to a person of nearer consanguinity is chargeable at the lower rate applicable to his or her wife or husband.

The Adoption of Children Act, 1926, and the Legitimacy Act, 1926, provide for children adopted or legitimated to be treated for Legacy Duty purposes as if they were born in wedlock. Similar provisions now apply as between a mother and her illegitimate child.

15. The value upon which Legacy Duty is payable is to be ascertained as at the date of retainer, including accretions since the deceased's death. The value of an annuity must be calculated according to the tables annexed to the Succession Duty Act, 1853. Where the value of the benefit can only be ascertained from time to time, Legacy Duty is chargeable upon the actual payments as and when made.

Charge to Succession Duty

16. Under the Succession Duty Act, 1853, Succession Duty is chargeable whenever a person becomes entitled to any property, or to the income of any property, upon a death. It thus extends to any benefit arising upon a death whether under a will or intestacy, an inter vivos settlement or other disposition, but as already noted is not payable in respect of benefits which are also chargeable with Legacy Duty. As regards interests arising under a will or intestacy, Succession Duty is chargeable only in respect of real or leasehold property which is devised or transmitted, legacies payable out of real property and the proceeds of sale of real property given on trust for sale (legacies payable out of leaseholds and the proceeds of sale of leaseholds under a trust for sale being liable to Legacy Duty). Under any title other than a will or intestacy or a donatio mortis causa, the appropriate duty is always Succession Duty and not Legacy Duty.

17. Immoveable property abroad, as it is governed by the lex situs, is outside the scope of the Succession Duty Act. On the death of a life tenant however, foreign immoveables are chargeable with Succession Duty if subject to a trust for sale under a British disposition. All moveable property, wherever situate, subject to a British settlement attracts Succession Duty if not liable to Legacy Duty.

18. The rates of Succession Duty depend upon the consanguinity between the successor and the predecessor - the person from whom he derives his succession. They are the same as those applicable to Legacy Duty as set out above.

19. The value upon which Succession Duty is payable in the case of absolute interests in personalty is in general the value at the date of death.

If the successor to real property or leaseholds is competent to dispose, the value for Succession Duty is the principal value as ascertainable for

/Estate Duty

Estate Duty purposes after deducting any Estate Duty payable and any expenses properly incurred in raising and paying the same. Otherwise the interest of the successor is considered to be the value of an annuity equal to the annual value of the property after necessary outgoings and calculated according to the statutory tables.

Exemptions applying to Legacy and Succession Duty.

20. The following exemptions apply both to Legacy Duty and to Succession Duty:

- (1) Articles of plate and furniture given to different persons in succession are exempt while enjoyed in kind;
- (2) Books, prints, pictures, etc., given for preservation to certain bodies (e.g., the National Gallery) are exempt;
- (3) Pictures, prints, works of art of national, scientific, historic or artistic interest are exempt from all Death Duties while enjoyed in kind;
- (4) The relief referred to in paragraph 8 (d) in the Note on the Estate Duty in respect of property passing to certain near relatives if the death occurs on active service or service of a warlike nature or arises from injuries caused by the operations of war extends to Legacy and Succession Duty;
- (5) Certain British Government securities are expressly exempt from duty while in the beneficial ownership of persons neither domiciled nor ordinarily resident in the United Kingdom;
- (6) An interest arising upon a death by reason of a bona fide purchase is not, as between the contracting parties, deemed to confer a succession and is exempt;
- (7) A legacy, other than a pecuniary legacy, is exempt if the total value taken by any one legatee is less than £20;
- (8) Where the net value of the free personal estate does not amount to £100 it is exempt from Legacy Duty, and there is an exemption from Succession Duty where on any death the whole successions derived from the same predecessor do not amount to £100;
- (9) Where the net value of the property (exclusive of anything settled otherwise than by the deceased's Will) in respect of which Estate Duty would - but for the smallness of value - be payable, does not exceed £2,000, such property is exempt from Legacy Duty and Succession Duty. Where the value slightly exceeds £2,000 the amount of Legacy Duty and Succession Duty must not be greater than the excess above £2,000;

/(10) Legacy Duty

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(10) Legacy Duty and Succession Duty at 2 per cent. are not levied

(1) Where the principal value of the property passing on the death of the deceased in respect of which Estate Duty is payable does not exceed £15,000. For this purpose, however, there is excluded property in which the deceased never had an interest and property of which he was never competent to dispose which passes on his death to persons other than his spouse, lineal ancestor or descendant;

(2) Where the value of the legacies or successions derived by the same beneficiary from the same testator, intestate or predecessor does not exceed £1,000, or £2,000 if the beneficiary is the widow or child of the testator, intestate or predecessor.

(11) Bequests of less than £100 are exempted from Legacy and Succession Duty.

Collection of Legacy and Succession Duty

21 Legacy Duty is generally payable by the executor or administrator of the deceased's estate upon payment or retainer of the bequest. The duty in respect of an annuity is payable by four yearly instalments, but on the death of the annuitant within this period only instalments already accrued are payable. Where a legacy or residue of personal estate is given to different persons in succession, not all chargeable at the same rate of Legacy Duty, the persons taking for life are chargeable as if the annual income had been given by way of annuity and the instalment provisions apply. If they are all chargeable at the same rate, Legacy Duty is payable as in the case of an absolute legacy to one person.

22. Succession Duty in respect of absolute interests in real or leasehold property is payable by eight yearly or sixteen half-yearly instalments, the first instalment being due twelve months after the death. If the successor takes only a limited interest the duty is payable on an annuity basis by eight half-yearly instalments, the first being payable twelve months after the successor becomes entitled to enjoyment of the property. On his death any instalments not then due cease to be payable. He has the further alternative of paying by two equal moieties, the first by four yearly instalments and the second either in one sum or by four more yearly instalments.

Succession Duty in respect of absolute interests in personalty other than leaseholds is payable when the successor becomes entitled in possession to his succession. Duty in respect of an annuity or life interest is payable by instalments as in the case of Legacy Duty. If the property is taken by different persons in succession, all chargeable at the same rate, Succession Duty is payable as in the case of an absolute interest.

/23. Interest

23. Interest at the rate of 2 per cent. per annum net is charged on unpaid Legacy Duty as from the date of payment or retainer of the bequest and in the case of Succession Duty as from twelve months after the death.

24. The answers to the specific questions are therefore:

- (a) 1. Estate Duty is levied on the property as a whole, Legacy and Succession Duty on what each heir, etc. takes.
(There is no gift tax);
- 2. Estate Duty is chargeable on a gift mortis causa (paragraph 2 (c) above), and in certain circumstances on a gift inter vivos (paragraph 2 (d) and (e) above).
Legacy Duty is charged on a gift mortis causa and Succession Duty on property passing under a settlement or other disposition. An out and out inter vivos gift is not liable to either Legacy or Succession Duty;
- 3. No. Where a person dies domiciled in this country his personal estate wherever situate is charged.
- 4. No. (see paragraph 2 (i) above).
- (b) 1. As to nationality 'no', as to domicile 'yes'.
(Paragraph 2 (ii) above for Estate Duty and 13 above for Legacy Duty. The test in the case of Succession Duty is neither domicile nor nationality but whether the beneficiary becomes entitled by virtue of the law of this country (paragraph 17 above.);
- 2. For Estate Duty 'yes' (paragraph 2 (i) above). For Legacy and Succession Duty 'no';
- 3. No.
- 4. Yes (paragraph 2 above as to the distinction drawn between moveable and immoveable property for Estate Duty purposes. Also, agricultural property is charged to Estate Duty at lower rates).
- (c) 1. Yes. See (b) 4.
- 2. No.
- 3. No.

V. Capitation and Head Taxes

No capitation or head taxes are levied in the United Kingdom.

/B. Indirect Taxes

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B. Indirect Taxes

I. Sales Taxes

(a) Retail sales taxes

There are no retail sales taxes on goods in the United Kingdom

(b) Manufacturer's, Wholesaler's, importer's sales taxes and turnover taxes

Purchase Tax is levied on the wholesale value of chargeable goods supplied under "chargeable purchases". Broadly speaking, there is a "chargeable purchase" when a registered wholesale merchant or manufacturer sells chargeable goods by wholesale to a retailer or appropriates or applies them to the purpose of retail trading or to any purposes other than a sale as stock or materials to another registered person. A registered wholesale merchant can buy goods as stock for resale, and a registered manufacturer can buy goods as materials for manufacture, tax-free from a registered seller. (For fuller details of the scheme and scope of the Tax see Public Notices Nos. 77, 78 and 79 attached)

1. (a))
 (b)) No, not on all goods (- see Public Notice No. 78).
2. (a))
 (b)) Yes on comparable goods, at the rates indicated in the
 Public Notices.
 (c) No. Tax relief is allowed on goods exported by a
 registered trader direct from untaxed stock (see
 Public Notice No. 77, paragraphs 28-32).
 (d) Ships, Aeroplanes, etc. are not chargeable goods.
 Chargeable articles used in the building and
 equipment of new ships or aircraft can be obtained
 free of tax. Similarly chargeable articles used
 in the repair or refitting of, or shipped as stores
 on, foreign-going ships or aircraft can be obtained
 free of tax (see Public Notice No. 77, paragraphs
 33-34).
 (e) Yes, unless the goods are exported as at (c) above,
 with the sole exception that a person who is
 temporarily in U.K. and who is or is about to be
 resident outside the U.K. may obtain a mechanically
 propelled vehicle tax-free for use in the U.K. for
 a limited period provided the vehicle is duly
 exported by the manufacturer, under control, at the
 end of the visitors stay.
 (f) Yes, subject to (c) above.

3. The registered trader who sells taxable goods to an unregistered customer.

/(c) Excises

(c) Excises on the sale of services.

Entertainments Duty is levied on admissions to most entertainments - see Public Notice No. 102 and supplementary leaflets attached.

Pool Betting Duty is levied:

- (i) on bets made by means of a totalisator on a dog-racing track; and
- (ii) on the stake money paid for betting by means of football or other pools or pari-mutuel systems, except on totalisators set up on an approved horse racecourse by or under the authority of the Racecourse Betting Control Board.

(Amplification of this is contained in Public Notice No. 147).

- 1. (a) No effect.
- (b) The duty applies when the seller (promoter) is in Great Britain.
- (c) No effect.
- 2. The seller is liable for the duty which he deducts from
 - (i) the admission money in the case of Entertainments Duty and (ii) the stake money in the case of the Pool Betting Duty. (The machinery for collection is explained in the Public Notices).

VI. Taxes on Transportation and Communications

There is no taxation of these services as such in the United Kingdom. Fees on the licensing and registration of mechanically propelled road vehicles are imposed uniformly on the operation of such vehicles in the United Kingdom without regard to the person of the owner or the origin of the vehicle (see Memorandum RVL 30/2 of Ministry of Transport, February 1948).

VII. Stamp Duties

- (i) Stamp duties are chargeable upon a wide range of legal and commercial documents.
 - (a) The nationality or domicile of the parties to an instrument is immaterial.
 - (b) and (c) The charge extends not only to instruments executed in the United Kingdom but also to instruments executed outside the United Kingdom, but relating either to any property situated in the United Kingdom or to any matter or thing done or to be done in the United Kingdom.

/Stamp Duty on Bonus

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Stamp Duty on Bonus Issues

(ii) The Finance Act 1947 required statements to be made to the Commissioners of Inland Revenue in connection with any securities issued by a United Kingdom company "by way of bonus" to its members or to the members of another company, and imposed a stamp duty of 10% on the value of the bonus. The main types of case on which the duty is levied are as follows:

- (a) a company issues free to its existing shareholders or debenture holders bonus shares or bonus debentures, the amount treated as paid up on the shares or secured by the debentures, being satisfied by the capitalization of profits or reserves of the company;
- (b) a company issues new shares or debentures for cash and limits the offer to existing shareholders or debenture holders;
- (c) a company makes a public offer of new shares or debentures for cash but gives existing shareholders or debenture holders preferential terms either by allowing them to pay a lower price or by giving priority to their applications;
- (d) a company with partly paid shares increases the amount treated as paid up thereon (thus reducing the shareholders' liability to subsequent calls), and satisfies the increase by capitalizing profits or reserves; or a company with debentures increases the amount secured thereby by capitalizing profits or reserves.

(iii) The amount of the bonus on which duty is charged is the market value of the securities issued (in the case of private companies, the nominal value), less any consideration given by the members to the company for the issue.

(iv) As regards stamp duty on bonus issues, the answer to the specific questions is:

- 1, 2 and 3. The duty is only chargeable on issues by companies incorporated in the United Kingdom.

VIII. Occupational, License and Franchise Taxes on the Practice of a Profession or Craft, or in the Carrying on of a Business

A. Licenses

The short answer to the questionnaire is that the regulations governing the issue of licenses contain no provision for discrimination based on nationality or domicile. The only differences based on the place where the licensed activity is to be carried on are:

/(a) The slightly

- (a) The slightly different requirements (e.g. as between England and Wales on one hand and Scotland on the other hand) as to covering Justice Licences.
- (b) The different rates of licence duty where intoxicating liquor is involved - e.g. hotels, clubs, Public Houses, Restaurant cars, etc. have different rates or methods of assessment of licence duties.

The amount of the tax varies in many cases in proportion to the turnover or the annual value of the premises.

Tables of the licences involved are annexed with brief explanations of the controls on the issue of the licences and of the reasons for variation in the amount of the tax. For convenience the tables are arranged under groups as follows:

- Licences to sell
- Manufacturers Licences
- Occupational Licences
- Dog and Game Licences

/MANUFACTURERS

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MANUFACTURERS' LICENCES

Class of Trader	Annual licence Duty Payment	Reasons for any variation on annual duty payment	Any control other than Excise on the issue of the licence
Brewers for Sale	£1 upwards	According to the output	-
Brewers not for sale	Free, 4s Od, 25s Od or 50s Od	Depending mainly on annual value of premises	-
Distillers	£10 upwards	According to the output	-
Glucose, saccharin and invert sugar manufacturers	£1	-	-
Matches manufacturers	£1	-	-
Mechanical Lighter manufacturers	free	-	-
Methylated spirits maker (other than a distiller or rectifier of spirits)	£1 10s Od	-	-
Playing card seller who is also a maker	£10	-	-
Still keeper or user	10s Od	-	-
Sweets (British Wine) maker	£5 5s Od	-	-
Sparkling sweet maker	free	-	-
Sugar (British beet) manufacturer	£1	-	-
Rectifier and compounder of Spirits	£15 15s Od	-	-
Tobacco and snuff manufacturer	£5 5s Od £31 10s Od	According to output	-
Tobacco grower and curer	5s Od	-	-
Vinegar maker	£1	-	-

/LICENCES

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LICENCES TO SELL

Class of Trade	Annual licence Duty Payment			Reasons for any variation in annual duty payment	Any control other than Excise on the issue of the licence
	£.	s.	d.		
<u>Dealers</u>					
Spirit dealers	15	15	0	-	-
Wine dealers	10	10	0	-	-
Sweets (British Wine) dealers	5	5	0	-	-
Beer dealers	10	10	0	-	-
Heavy Hydrocarbon Oil dealers	Free			-	-
Spirits of Wine Dealers	10	0	0	-	Justice's licence required
Tobacco dealers (mainly taken by retailers)		5	3	-	-
Game dealers	£2				Justice's licence required
<u>Retailers for consumption on the premises</u>					
Spirits retailers	1/2 the annual value of the licensed premises			According to the annual value of the licensed premises	Justice's licence required
Wine retailers	£4 10s 0d to £12			do.	do.
Sweets (British Wine) retailers	£2 5s 0d to £6			do.	do.
Beer Retailers	1/3 the annual value of the licensed premises			do.	do.
Cider retailers	£2 5s 0d to £6			do.	do.

/Methylated Spirits

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LICENCES TO SELL (continued)

Class of Trade	Annual licence Duty Payment	Reasons for any variation in annual duty payment	Any control other than Excise on the issue of the licence
Methylated Spirits retailers	10s 0d	-	-
Passenger Vessels on which liquor and tobacco are sold (Travelling from one place in United Kingdom to another place in the United Kingdom or which return to the same place in the United Kingdom on the same day).	£10	-	-
Passenger Aircraft on which liquor is sold (Travelling from one place in the United Kingdom to another place in the United Kingdom or which return to the same place in the United Kingdom on the same day).	£1	-	-
Railway Restaurant Car (for sale of liquor)	£1	-	-
Registered Clubs	3d. per £ of purchases of intoxicating liquor	According to purchases of intoxicating liquor	Must be registered with Clerks of Special Sessions, Police Courts, etc.
<u>Retailers for consumption off the premises</u>			
Spirits retailers	£10 to £50	According to the Annual value of the licensed premises	Justice's licence required with certain exceptions
Wine retailers	£2 10s 0d to £10	do.	do.
Sweets (British Wine) retailers	£2	-	Justice's Licence required

/Beer retailers

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LICENCES TO SELL (continued)

Class of Trade	Annual licence Duty Payment	Reasons for any variation in annual duty payment	Any control other than Excise on the issue of the licence
Beer retailers	£1 10s 0d to £10	According to annual value of licensed premises	Justice's Licence required
Cider retailers	£2	-	-

/OCCUPATIONAL

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OCCUPATIONAL, ETC. LICENCE

Class of Trader	Annual licence Duty Payment	Reasons for any variation in annual duty payment	Any control other than Excise on the issue of the licence
Appraiser	£2		-
Auctioneer	£10		-
*Bookmaker at Greyhound Racetracks with totalisators	£6 to £48	According to the number of enclosures on the race-track	-
Hawker	£2	-	Certificate of character signed by a responsible person (Clergyman, etc.) is required initially but not for renewals
House Agent	£2	-	-
Money-lender	£15	-	Certificate from petty sessional court required
Pawnbroker	£7 10s 0d		Magistrate's certificate required
Plate Dealer (dealing in gold or silver above certain weights in any one article)	£2 6s 0d or £5 15s 0d	According to the weight of gold or silver in any separate article sold	-
Refreshment House Keeper	10s 6d or £1 1s 0d	According to annual value or rent	-

* See next page.

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DOG AND GUN LICENCES

Class	Annual licence Duty Payment	Reasons for any variation in annual duty payments	Any control other than Excise on the issue of the Excise licence
Dog - to keep	7s 6d	-	-
Game - to kill	£3 0s 0d) These licences do not authorise any person to purchase, have, use or carry any firearms (as defined in the Firearms Act, 1937) in respect of which a firearm certificate is required.
Game - to kill for Game Keeper	£2 0s 0d		
Gun to carry or use	10s 0d		

BOOKMAKERS' LICENCES

Every bookmaker who carries on bookmaking on a dog race-course at which a totalisator is operated is required to be in possession of a Bookmakers' Licence. The Public Notices Nos. 148 and 149 (attached) outline the responsibilities of the bookmaker and course occupier in connection with these Licences.

- (a) 1. No effect.
2. The duty is levied only on bookmakers carrying on bookmaking at a dog race meeting at which a totalisator is operated.
3. No effect.
- (b) The duty is graduated and depends on the number of enclosures at the dog race track and on the particular enclosure in which the bookmaker operates.

/B. Taxes

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B. Taxes on the practice of a profession, etc.

(i) A stamp duty is chargeable upon the practising certificate which a solicitor practising in the United Kingdom is required by law to obtain annually.

(ii) The duty is a small one of fixed amount, and is slightly greater in cases where the practice is carried on in London or Edinburgh than in other cases. It does not depend upon the nationality or domicile of the individual.

IX. Social Security Taxes

Broadly speaking, there are no Social Security taxes as such in the United Kingdom. There is, however, a universally applicable contributory insurance scheme. Under that scheme no variations in the amounts of contributions occur by reference to:

- (1) the nationality of domicile of the employer or employee
- (2) the location of the place of work
- (3) the character of national or international scope of the enterprise, where the employee is working.

/Appendix.

Appendix. Rates of Estate Duty

Where the Net Principal Value of the Estate		Rate
Exceeds	And does not exceed	
£	£	
100	500	-
500	1,000	-
1,000	2,000	-
2,000	3,000	1
3,000	5,000	2
5,000	7,500	3
7,500	10,000	4
10,000	12,500	6
12,500	15,000	8
15,000	18,000	10
18,000	20,000	10
20,000	21,000	12
21,000	25,000	12
25,000	30,000	14
30,000	35,000	16
35,000	40,000	18
40,000	45,000	20
45,000	50,000	22
50,000	55,000	24
55,000	60,000	24
60,000	65,000	27
65,000	70,000	27
70,000	75,000	27
75,000	80,000	30
80,000	85,000	30
85,000	90,000	30
90,000	100,000	30
100,000	110,000	35
110,000	120,000	35
120,000	130,000	35
130,000	140,000	35
140,000	150,000	35
150,000	170,000	40
170,000	175,000	40
175,000	200,000	40
200,000	225,000	45
225,000	250,000	45
250,000	300,000	50
300,000	325,000	55
325,000	350,000	55
350,000	400,000	55
400,000	450,000	55
450,000	500,000	55
500,000	600,000	60
600,000	750,000	60
750,000	800,000	65
800,000	1,000,000	65
1,000,000	1,250,000	70
1,250,000	1,500,000	70
1,500,000	2,000,000	70
2,000,000	-	75